IN THE HIGH COURT OF DELHI

Bail Application No.791/2007

Jatin Arora ..... Petitioner
! through: Mr. Sameer Vashisht, Advocate

VERSUS

$ State ..... Respondent
^ through: Mr. Pawan Sharma, Advocate

% DATE OF DECISION: *12*.09.2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y

2. To be referred to the Reporter or not? Y

3. Whether judgment should be reported in Digest? Y

: **PRADEEP NANDRAJOG, J.** (Oral)

FIR No. 350/2007 dated 31.3.2007
U/S. 452/506/34 IPC
PS: Malviya Nagar.

1. Instant case reflects the stress of urban living and the ill effect of governmental policy of just about regularizing whatever is sought for on public demand.

2. Town and country planning laws are enacted keeping in view not only the environmental needs of a civil society but even the psychological needs of those who live in a society.

3. Every individual needs space for himself. If too many are cramped into a small space, there is bound to be friction. Wherever there is friction, there is bound to be heat. If the heat is

not dissipated, it is bound to explode.

4. Instant case is a living example of the result of breakdown of town planning laws.

5. The colony is Panchsheel Park. The place of occurrence is the municipal street abutting plot No. S-210, Panchsheel Park, New Delhi.

6. As originally envisaged when the colony was sanctioned, permissible construction was on the ground floor and the first floor. On the barsati floor, only 25% coverage was permitted.

7. On popular demand by the citizens of Delhi, ignoring the warnings of experts in the field of town planning, from time to time, the municipal agencies pandered to the public lust of increase in FAR. A complete second floor was allowed. As of today, even a third floor is allowed in the city of Delhi.

8. But, as the colony was conceived of when lay out plan was sanctioned, parking norms were with reference to a population density equivalent to an FAR which permitted construction of only a ground floor and a first floor.

9. As FAR increased in the colony, Jatin Arora and his family as owners occupied the basement and ground floor of the property. Rajeev Bhardwaj as owner occupied the first floor. A third family occupied the second floor.

10. Purchasing property in prime locality of Delhi, the

effluence was reflected in the form of a fleet of cars owned by each family.

11. Obviously, a fight had to ensue on the parking rights inter se the residents of the plot.

12. An incident took place at about 11:00 P.M. on the intervening night of 30.3.2007 and 31.3.2007.

13. Usha Arora, mother of Jatin Arora had to seek rescue by calling the police at No. 100.

14. Jatin Arora was seriously assaulted. Even a bullet had been fired. Rajeev Bhardwaj was stated to be the assailant.

15. An empty shell of bullet was recovered. Jatin Arora was taken to AIIMS. He was bleeding profusely. After initial medical aid at AIIMS, he was taken to Apollo Hospital.

16. FIR No. 348/2007 was registered on the complaint lodged by Usha Arora. Time at which information was entered in the general diary is 1:20 A.M. The accused is Rajeev Bhardwaj.

17. After about 7 hours a cross FIR was registered on information received at 8:45 A.M.

18. Aforenoted is the number and particulars of the FIR. The cross FIR was lodged by Sushma Bhardwaj wife of Rajeev Bhardwaj. In her FIR, she has stated as under:-

> "That I am living on the aforestated address with my family since 25th June 2004. My husband Shri Rajeev Bhardwaj is a Senior General Manager with CONCOR. My husband Shri Rajeev Bhardwaj had purchased a new Honda City Car and when we wanted to park the same, Mr. Jatin Arora who is residing on the ground floor had a

> quarrel with him on 29th March 2007. Jatin Arora was drunked and he accused my husband that we were trying to get his basement sealed by the MCD. That on 30th March 2007 my husband had discussed the matter with Mrs. Usha Arora. At around 11 PM in night my husband came back to the house and told our driver Uday to cover the car and then to return the keys. After sometime when he opened the door for Uday he saw Jatin Arora standing on the door with 3-4 persons. They were holding iron rods and they forcefully entered our house and threatened to kill us. Jatin's mother and sister came to our house following him. I am not aware of the names and the particulars of Jatin's associates but I can recognize them. Legal action be initiated against them."

19. There is prima facie evidence of aforenoted FIR being registered as a cross FIR to try and create a possible defence.

20. Noting that no member of the family of Rajeev Bhardwaj has suffered any injury and noting the fact that Jatin Arora has received serious injuries as also the fact that Rajeev Bhardwaj had ostensibly fired at Jatin Arora, a bullet mark on the front wall of the house prima facie evidences the place where the altercation took place is outside the house i.e. the place where there was a dispute on parking a car. It cannot be the first floor house of the Bhardwaj family.

21. Case is made out to grant relief as prayed for by the petitioner.

22. Petition accordingly stands disposed of directing that in the event of being arrested by the IO, petitioner would be released on bail on his furnishing a personal bond in sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the IO in the above captioned FIR.

23. Needless to state, observations made in the instant order are a prima facie opinion of this Court. If issue proceeds to trial, matter would decide on the basis of evidence.

24. Needless to state, petitioner would join investigation as and when required by the IO.

25. Dasti.

September 12, 2007 **PRADEEP NANDRAJOG, J.**
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